

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARY LENISE COOK,

Plaintiff,

CASE NUMBER: 14-12516
HONORABLE VICTORIA A. ROBERTS

v.

DEPARTMENT OF HUMAN SERVICES,
et al.,

Defendants.

ORDER

On June 26, 2014, Plaintiff filed a *pro se* complaint against “Department of Human Services”; “Grandriver Warren District”; and “Hamtrack Jos Campu District.” Plaintiff also filed an application to proceed *in forma pauperis*.

The Court **GRANTS** the application to proceed *in forma pauperis*. This action is **DISMISSED** for lack of subject matter jurisdiction and for failing to state a claim on which relief may be granted under 28 U.S.C. § 1915(e)(2)(B).

The complaint is comprised of several disconnected allegations, but Plaintiff does allege that Defendants have “been committing fraud since 1/1/2011 - 7/1/2011.” The alleged fraud appears to be based on a document Plaintiff received – which is titled “Eligibility Summary” – stating that Plaintiff was paid monthly “benefits” from January to July 2011; Plaintiff attaches a printout of the Eligibility Summary to the complaint. Plaintiff says she did not receive “that income” from Defendants. Plaintiff also says she “kept [her] grandson for 7 mo[nth]s, but she does not specify the time period.

Plaintiff fails to allege any basis for federal subject matter jurisdiction. However,

she does summarily cite to section 3729 of the False Claims Act (FCA), 31 U.S.C. § 3729, *et seq.* Section 3729 of the FCA provides that “any person who—

- (A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- (C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
- (D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- (E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- (G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000 ... plus 3 times the amount of damages which the Government sustains because of the act of that person.”

See 31 U.S.C. § 3729(a)(1). In general terms, the FCA defines “claim” as a demand for money or property made directly to the federal government.

The FCA allows an individual to bring a civil action for a violation of § 3729. See 31 U.S.C. § 3730(b)(1). However, the “action shall be brought in the name of the Government”; the complaint must be filed under seal, or “in camera”; and “[a] copy of

the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4)." See 31 U.S.C. § 3730(b)(1)-(2).

Plaintiff fails to comply with any of these requirements. The action was filed in her name, it was not filed under seal, and she fails to allege that she served the government with the required materials. Furthermore, Plaintiff fails to state that the alleged fraud involved any false claim made to the federal government. The Department of Human Services and the other defendants are not federal agencies or any other subpart of the federal government. The Department of Human Services is a state agency; the other defendants appear to be part of local municipalities.

Plaintiff fails to properly bring a private action under the FCA. Moreover, notwithstanding the procedural deficiencies, the complaint contains insufficient factual allegations to state a claim for relief on which relief may be granted under the FCA.

Plaintiff alleges no other basis for federal court jurisdiction, no claims, and no requests for relief. Accordingly, the complaint fails to state a claim on which relief may be granted.

The Court must dismiss any action filed *in forma pauperis* that is factually frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from suit. See 28 U.S.C. § 1915(e)(2)(B).

Because Plaintiff fails to state a claim on which relief may be granted and does not allege subject matter jurisdiction, the complaint is deficient.

Plaintiff's request to proceed *in forma pauperis* is **GRANTED**. Plaintiff's

Complaint is **DISMISSED**.

IT IS ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: July 7, 2014

The undersigned certifies that a copy of this document was served on the attorneys of record and Mary Lenise Cook by electronic means or U.S. Mail on July 7, 2014.

S/Carol A. Pinegar

Deputy Clerk